

REMARKS

In a Final Office Action dated February 15, 2008, the Examiner has again rejected Claims 21-29 under 35 USC §101 as being directed to non-statutory subject matter. The Examiner has maintained the rejection of Claims 1-29, 31-40 and 48-61 under 35 USC §103(a) as being unpatentable over Applicant's Admitted Prior Art ("AAPA") and Claims 41-47 under 35 USC §103(a) as being unpatentable over US Patent Application No. 7,111,303 issued to Macchiano et al, ("Macchiano"). Applicant respectfully traverses the rejections.

In this response, and without admitting the propriety of the rejections, Applicant has canceled Claim 21-29 and has amended Claims 41-46 in an effort to advance the prosecution of this application as quickly as possible. Applicant requests continued examination and reconsideration of remaining Claims 1-20 and 31-61 for the reasons set forth in detail in the following remarks.

CLAIM REJECTIONS – 35 U.S.C. § 101

Claims 21-29 were rejected under 35 USC §101 as directed to non-statutory subject matter. Applicant has canceled Claims 21-29 without prejudice.

CLAIM REJECTIONS – 35 U.S.C. § 103

Claims 1-29, 31-40 and 48-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA for the same reasons set forth in the previous Office Action. Applicant traverses the rejection. In maintaining the rejection, the Examiner states that the physical device 190 illustrated in Fig. 1 is shared among both virtual machines, and concludes that "it would be obvious to one of ordinary skill that the memory contained

within the device, although partitioned for use by each virtual machine, would be interpreted as being ‘shared.’” Applicant disagrees. The examiner is reminded that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); Chef America, Inc. v. Lamb-Weston, Inc., 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004). MPEP 2111.01 In the instant application, the description of Fig.1 and elsewhere in the specification makes a clear distinction between *separate* physical memory elements 181 and 182 as illustrated in Fig. 1, and a *shared* physical memory element as recited in the claims. Therefore, Applicant submits that Examiner cannot support the rejection of Claims 1-29, 31-40 and 48-61 under Section 103 using his stated rationale. Applicant requests the withdrawal of the rejection of Claims 1-20, 31-40 and 48-61.

Claims 41-47 were rejected under 35 USC 103(a) as being unpatentable over Macchiano for the same reasons set forth in the previous Office Action. Applicant traverses the rejection. Nevertheless, and without admitting the propriety of the rejection, Applicant has amended Claims 41-47 to clarify the subject matter that Applicant regards as the invention. Applicant submits that Claims 41-47 are patentably distinguishable over the cited and applied art of record, and requests the withdrawal of the rejection.

CONCLUSION

For at least the foregoing reasons, Applicants submit that the rejections have been overcome. Therefore, Claims 1-20 and 31-61 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

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/Donna Jo Coningsby/
Donna Jo Coningsby
Reg. No. 41,684
Attorney for Applicant(s)

1279 Oakmead Parkway
Sunnyvale, CA 94085-4040
(503) 439-8778